

IC 6-1.1-29.5

Chapter 29.5. Capital Projects Review

IC 6-1.1-29.5-0.5

Application

Sec. 0.5. This chapter applies only to a capital project that meets both of the following conditions:

- (1) The capital project is a controlled project (as defined in IC 6-1.1-20-1.1), except as provided in subdivision (2).
- (2) Notwithstanding IC 6-1.1-20-1.1(2), the capital project will cost the political subdivision more than seven million dollars (\$7,000,000).

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-1

"Capital project"

Sec. 1. (a) As used in this chapter, "capital project" means any:

- (1) acquisition of land;
- (2) site improvements;
- (3) infrastructure improvements;
- (4) construction of buildings or structures;
- (5) rehabilitation, renovation, or enlargement of buildings or structures; or
- (6) acquisition or improvement of machinery, equipment, furnishings, or facilities required for the operation of buildings, structures, or infrastructure;

(or any combination of subdivisions (1) through (6)) by a political subdivision.

(b) The term does not include projects for the construction, reconstruction, improvement, enlargement, extension, or maintenance of any of the following:

- (1) Wastewater treatment.
- (2) Sewer systems, including storm water management.
- (3) Water storage, water distribution (including water lines), and other drinking water systems.
- (4) Water management or water supply.
- (5) Drainage or flood control.
- (6) Any works (as defined in IC 13-11-2-269(1)) for a water project.
- (7) Any works (as defined in IC 13-11-2-269(2)) for a sewage project.
- (8) Highways or roads.
- (9) Bridges.
- (10) Any other water project, sewer project, bridge project, or highway or road project.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-2

"Fiscal body"

Sec. 2. As used in this chapter, "fiscal body" has the meaning set

forth in IC 36-1-2-6.
As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-3

"Political subdivision"

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-4

"Review board"

Sec. 4. As used in this chapter, "review board" refers to the county board of tax and capital projects review established in a county under IC 6-1.1-29.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-5

Hearings; capital projects plan

Sec. 5. (a) The fiscal body of each political subdivision shall do the following:

- (1) After January 1 and before October 1 of 2009 and every two
- (2) years thereafter:

(A) hold a public hearing on a proposed capital projects plan for the political subdivision; and

(B) adopt a capital projects plan by ordinance or resolution.

- (2) Submit a copy of the capital projects plan and the ordinance or resolution to the review board not later than fifteen (15) days following the adoption of the capital projects plan.

(b) If a political subdivision contains territory in more than one (1) county, the fiscal body shall transmit a copy of the capital projects plan and the ordinance or resolution to the review board of each county in which the political subdivision contains territory.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-6

Components of capital projects plan

Sec. 6. (a) The department of local government finance shall by rule prescribe the format of a capital projects plan. A capital projects plan must apply to at least the five (5) years immediately following the year the capital projects plan is adopted and must include the following components for each year covered by the capital projects plan:

- (1) A general description of the political subdivision.
- (2) A description of facilities owned by the political subdivision and the use of the facilities.
- (3) The location and general description of each proposed capital project and the intended use of each proposed capital project.
- (4) The estimated total cost of each proposed capital project.
- (5) Identification of all sources of funds expected to be used for

each proposed capital project.

(6) The planning, development, and construction schedule of each proposed capital project.

(7) Any other element required by the department of local government finance.

(b) The department of local government finance shall by rule establish a procedure for amendment of a capital projects plan in the case of an emergency.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-7

Summary

Sec. 7. Before a public hearing on a proposed capital projects plan is held by the fiscal body of a political subdivision under section 5(a)(1) of this chapter, the fiscal body shall publish a summary of the proposed capital projects plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-8

Testimony

Sec. 8. When the fiscal body of a political subdivision holds a public hearing on a proposed capital projects plan under section 5(a)(1) of this chapter, the fiscal body shall allow the public the opportunity to testify concerning the proposed capital projects plan. However, the fiscal body may limit testimony at the public hearing to a reasonable time stated at the opening of the public hearing.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-9

Review board hearings and report

Sec. 9. (a) The review board shall hold a public hearing on a proposed capital projects plan submitted by a political subdivision. The review board shall allow the public the opportunity to testify concerning the proposed capital projects plan.

(b) The review board shall provide the fiscal body of a political subdivision with a written report concerning the review board's findings and recommendations concerning the fiscal body's capital projects plan not more than sixty (60) business days after the review board's receipt of the capital projects plan.

(c) If the fiscal body of a political subdivision receives a written report under subsection (b) that makes a recommendation against an element included in the political subdivision's capital projects plan, the political subdivision may retain that element in the capital projects plan only if the fiscal body at a public meeting addresses the review board's concerns and enters into the record of the public meeting an explanation of why that element should be retained in the capital projects plan.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-10

Review board approval of capital projects required

Sec. 10. (a) The fiscal body of a political subdivision that intends to construct, acquire, or carry out a capital project subject to this chapter:

- (1) must submit the plan of the capital project to the review board in the manner provided by this chapter; and
- (2) except as provided in section 14 of this chapter, may not:
 - (A) begin construction or acquisition of the capital project;
 - (B) enter into contracts for the construction or acquisition of the capital project;
 - (C) procure supplies necessary for construction or acquisition of the capital project;
 - (D) issue bonds, notes, or warrants, or otherwise borrow money for the capital project;
 - (E) enter into a lease or other agreement that would provide debt service for bonds or other obligations issued by the political subdivision or another entity to finance the capital project; or
 - (F) approve any of the actions described in clauses (A) through (E) by another entity;

unless the review board approves the capital project under section 13 of this chapter.

(b) If a political subdivision contains territory in more than one (1) county, the fiscal body of the political subdivision must submit the proposed capital project to the review board of each of those counties.

(c) The fiscal body of a political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-11

Fiscal body hearing on proposed capital project

Sec. 11. (a) Before the fiscal body of a political subdivision may submit a capital project described in section 10 of this chapter to the review board, the fiscal body shall:

- (1) hold a public hearing on the proposed capital project; and
- (2) prepare a feasibility study that supports the scope and cost of the proposed capital project.

Before a public hearing on a proposed capital project is held by the fiscal body of a political subdivision under this section, the fiscal body shall publish a description of the proposed capital project and a notice of the hearing in accordance with IC 5-3-1-2(b).

(b) The fiscal body of a political subdivision may consider multiple capital projects at a public hearing held under this section.

(c) When the fiscal body of a political subdivision holds a public hearing under this section, the fiscal body shall allow any person an opportunity to be heard in the presence of others who are present to testify with respect to the proposed capital project. However, the

fiscal body may limit testimony at a public hearing to a reasonable time stated at the opening of the public hearing.

(d) After holding a public hearing under this section and considering all information submitted by persons testifying at the hearing, the fiscal body of a political subdivision may adopt an ordinance or resolution requesting approval of the proposed capital project by the review board. The fiscal body shall immediately transmit a copy of the ordinance or resolution to the review board. If the political subdivision contains territory in more than one (1) county, the fiscal body shall transmit a copy of the ordinance or resolution to the review board of each of those counties.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-12

Review board hearing on proposed capital project

Sec. 12. (a) Before taking action on a request for approval of a proposed capital project described in section 10 of this chapter, a review board must conduct a public hearing on the proposed project. If a public hearing is scheduled under this section, the review board shall publish a description of the proposed capital project and a notice of the hearing in accordance with IC 5-3-1-2(b).

(b) The review board may consider multiple capital projects at a public hearing held under this section.

(c) The review board may require the fiscal body of a political subdivision that submits a request for approval of a capital project to provide plans, specifications, cost estimates, estimated impacts on tax rates, and other relevant information concerning that project.

(d) When a review board holds a public hearing under this section, the review board shall allow the public an opportunity to testify concerning the proposed capital project. However, the review board may limit testimony at a public hearing to a reasonable time stated at the opening of the public hearing.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-13

Approval or disapproval of proposed capital project

Sec. 13. (a) After considering all information submitted at the hearing under section 12 of this chapter by the fiscal body of the political subdivision and by persons testifying at the hearing, the review board may approve or disapprove a proposed capital project. The review board may consider the following factors when reviewing a proposed capital project:

- (1) The age, condition, and adequacy of existing facilities.
 - (2) The cost per square foot of the proposed capital project.
 - (3) The relative priority the proposed capital project should have among other capital projects proposed within the county.
 - (4) The estimated impact the proposed capital project would have on tax rates.
 - (5) Any other factors considered pertinent by the review board.
- (b) A review board may not disapprove a proposed capital project

that is required by a court order.

(c) If a review board does not issue a decision with respect to a proposed capital project within ninety (90) days after the review board's receipt of the plan of the capital project under section 11 of this chapter, the capital project is considered approved by the review board as submitted.

(d) If a proposed capital project is submitted to the review boards of two (2) or more counties as required by section 10(b) of this chapter and the project is disapproved by any of the review boards, the project is considered to be disapproved.

(e) All orders of the review board under this section shall be filed with the affected political subdivision and with the department of local government finance.

As added by P.L.224-2007, SEC.52.

IC 6-1.1-29.5-14

Petition and remonstrance

Sec. 14. If the review board disapproves a capital project under section 13 of this chapter, the political subdivision that proposed the project may take any action under section 10(a)(2) of this chapter with regard to the capital project if:

(1) not more than sixty (60) days after the review board's disapproval, the political subdivision initiates the petition and remonstrance process under IC 6-1.1-20-3.4; and

(2) the capital project is approved in the petition and remonstrance process under IC 6-1.1-20.

As added by P.L.224-2007, SEC.52.